

REMARKS

The present Amendment is made in response to the Office Action dated January 18, 2007. By this Amendment, Applicants have amended claims 17, 24, 25, 26 and 28 to better define the presently claimed invention. Claim 23 has been canceled without prejudice. Claim 25 has been amended to depend from claim 18. New claims 29-33 are being presented. Favorable reconsideration of all of the pending claims is respectfully requested.

Initially, the Examiner has objected to claim 24 as being duplicative of claim 18. As noted above, Applicants have amended claim 24 to more clearly define the presently claimed invention. Accordingly, in view of the amendment to claim 24, Applicants request the Examiner to withdraw this objection to claim 24.

The Examiner has objected to claims 21 and 22 under 35 U.S.C. § 101 as claiming the same invention of claims 1 and 6 of U. S. Patent No. 6,695,862. In view of the amendment to claim 17, claims 22 and 23 do not claim the same invention as claims 1 and 6 of U.S. Patent No. 6,695,862. Applicants respectfully request the Examiner to withdraw this rejection under 35 U.S.C. § 101.

The Examiner has rejected claims 17-19, 23-25 and 28 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,458,615 to Klemm, et al. (the "Klemm patent") in view of U.S. Patent No. 5,429,597 to De Mello et al. (the "DeMello patent"). Applicants note that independent claims 17 and 28 now include the recitation that the inner tubular member has a guide wire lumen extending from its proximal end to its distal end for receiving the guide wire. Contrary to the Examiner's position, the guide wire lumen in the Klemm patent does not extend from the proximal end to the distal end of the inner tubular member. Rather, as is shown in Figure 1 of the Klemm patent, the guide wire lumen 22 extends only along a distal region of the inner tubular member. The DeMello patent also fails to disclose this structure recited in the claims at issue. Therefore, the particular combination of patents relied upon by the Examiner fails to achieve the particular structure recited in these claims. Accordingly, Applicants respectfully request the Examiner to withdraw the obviousness rejection of these claims.

The Examiner also has rejected claims 20, 26 and 27 under 35 U.S.C. § 103(a) as being unpatentable over the Klemm patent in view of the DeMello patent and further in view of U.S. Patent No. 5,876,369 to Hauser (the "Hauser patent"). Applicants respectfully submit that claims 20, 26 and 27 are patentably distinct for at least the same reasons addressed above, namely, that the Klemm patent fails to disclose the basic structure of the inner tubular member. Neither the DeMello patent nor the Hauser patent shows such a structure. Accordingly, the particular combination relied upon by the Examiner fails to achieve structure defined by claims 20, 26 and 27. Applicants again respectfully request the Examiner to withdraw the obviousness rejection as to these claims.

New claims 29-33 are directed to a stent delivery system which includes an inner member having a stent mounting region which includes one or more openings defined therein to allow fluid to flow through the guide wire lumen into the annular space formed between the restraining sheath and the inner member for evacuating air from the catheter. This particular structure is believed to be patentably distinct from the prior art.

The Examiner has rejected claims 17-24 and 28 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-6 and 13 of U. S. Patent No. 6,695,862. Although Applicants do not agree with the Examiner's rejection of the claims on the grounds on non-statutory obviousness-type double patenting, in order to expedite allowance of the claims, Applicants are submitting herewith a Terminal Disclaimer to obviate this ground of rejection.

In view of the foregoing, it is respectfully urged that all of the present claims of the application are patentable and in a condition for allowance. The undersigned attorney can be reached at 310-824-5555 to facilitate prosecution of this application, if necessary.

In light of the above amendments and remarks, Applicants respectfully request that a timely Notice of Allowance be issued in this case.

Please charge or credit Deposit Account No. 06-2425 for any additional fees in connection with this amendment.

Respectfully submitted,

FULWIDER PATTON LLP

By: /Thomas H. Majcher/
Thomas H. Majcher
Registration No. 31,119

THM:lm

Howard Hughes Center
6060 Center Drive, Tenth Floor
Los Angeles, CA 90045
Telephone: (310) 824-5555
Facsimile: (310) 824-9696
Customer No. 24201
166718.1